IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5014 of 1994

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G S R T C - Petitioner(s)

Versus

I G MALEK - Respondent(s)

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Appearance :

MS KOTECHA for MR YOGESH S LAKHANI for Petitioner No(s).: 1.

RULE SERVED BY DS for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 02/08/2005

ORAL JUDGMENT

1.0 The petitioner Corporation has challenged the award dated 17.07.1993 passed by the Industrial Tribunal,

Baroda in Reference (IT) No. 69 of 1990, whereby the penalty imposed by the petitioner Corporation was set aside.

2.0 The brief facts of the case are that the respondent herein is serving as a Vehicle Examiner in the petitioner Corporation. It is the case of the petitioner that since the respondent herein was refused leave by the Senior Authority of the petitioner Corporation, he had behaved in an aggressive and bad manner. On account of the said mis-conduct, charge-sheet was issued and departmental inquiry was held against the respondent. Since the charges leveled against him were proved, by order dated 25.01.1989 a punishment of reducing the basic pay of the respondent by three stages was imposed.

2.1 Being aggrieved by the said order, the respondent preferred a reference before the Industrial Tribunal, Baroda. The Tribunal, after hearing the parties, quashed the punishment imposed by the petitioner authority. Hence, this petition.

3.0 I have heard learned counsel for the petitioner and perused the documents placed on record. Though served

none appears on behalf of the respondent. The Tribunal, while considering the case of the respondent workman, has set aside the order of punishment in spite of the fact that the respondent workman had misbehaved with the Senior Authority of the petitioner. Considering the fact that the respondent workman had even abused his superior Officer and since the charges leveled against him were also proved, the Tribunal ought not to have quashed the order of punishment.

3.1 In view of the facts and circumstances of the case, I am of the opinion that the Tribunal has committed an error in setting aside the order of punishment imposed by the petitioner Corporation. Looking to the gravity of mis-conduct, the petitioner Corporation was justified in imposing some penalty on the respondent. In my opinion, ends of justice would be met, if a penalty of stoppage of one increment with future effect is imposed on the respondent.

4.0 In above view of the matter, the impugned award of the Tribunal is substituted by imposing a penalty of stoppage of ONE increment with future effect. With the above direction, the petition stands disposed of

accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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